

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

SCOTT & WHITE MEMORIAL HOSPITAL,)	
)	
Plaintiff,)	
)	
v.)	
)	
AETNA HEALTH HOLDINGS, LLC, AS)	
SUCCESSOR BY MERGER TO COVENTRY)	
HEALTH CARE, INC., COVENTRY HEALTH)	
CARE NATIONAL NETWORK, INC.,)	
COVENTRY HEALTH AND LIFE INSURANCE)	
COMPANY, FIRST HEALTH GROUP CORP.,)	Civil Action No. 6:17-cv-75-RP-JCM
ARM LTD., RON PHILEMONOFF, AS)	
TRUSTEE FOR THE TANADGUSIX)	
CORPORATION HEALTH & WELFARE)	
TRUST, JULIANNA SHANE, AS TRUSTEE)	
FOR THE TANADGUSIX CORPORATION)	
HEALTH & WELFARE TRUST, and ROBERT)	
DEAN HUGHES, AS TRUSTEE FOR THE)	
TANADGUSIX CORPORATION HEALTH &)	
WELFARE TRUST,)	
)	
Defendants.)	

**ARM, LTD.’S RESPONSE TO PLAINTIFF’S MOTION FOR
LEAVE TO FILE SURREPLY
AND CONDITIONAL MOTION FOR LEAVE TO FILE RESPONSE TO SURREPLY**

Defendant ARM, Ltd. (“ARM”), through its undersigned attorneys, respectfully submits its response to Plaintiff Scott & White Memorial Hospital’s Motion for Leave to File Surreply [Dkt. No. 34] and moves for leave to file a response to any surreply allowed, and states as follows:

1. Counsel for Plaintiff contacted counsel for ARM concerning this filing of its Motion for Leave to File Surreply on Wednesday, August 30, 2017, and inquired whether ARM would object to Plaintiff filing its proposed surreply in opposition to ARM’s motion to dismiss (the “Surreply”).

2. Counsel for ARM advised Plaintiff’s counsel that ARM had no objection to Plaintiff’s filing of the Surreply, provided that ARM would have a fair opportunity to review the

Surreply and file a response to same if it chose to do so.

3. Unfortunately, Plaintiff objected to ARM's request that it be permitted to file a response to the Surreply. As a result, no agreement was reached between the parties, and Plaintiff filed its current motion, noting ARM's opposition.

4. Despite the parties' inability to reach an agreement, ARM maintains its position: Plaintiff may file its Surreply only if ARM is provided with a fair opportunity to prepare and file a response thereto. Without the opportunity to respond to Plaintiff's latest arguments, ARM must oppose the granting of leave to Plaintiff and ask that the Court disregard in its entirety the Surreply attached as an exhibit to Plaintiff's Motion for Leave.

5. ARM's request for permission to respond to Plaintiff's Surreply is entirely consistent with the procedures of this Court and most others. As the movant on the pending motion to dismiss, ARM is entitled to review and respond to all arguments raised in opposition to its motion.

6. Accordingly, in the event that Plaintiff is granted leave to file its Surreply, ARM respectfully requests that it be granted leave to file a short (5 pages or less) response to the Surreply by no later than Thursday, September 7, 2017.

Dated: August 31, 2017

Respectfully submitted,

FISH & RICHARDSON P.C.

By: /s/ William T. Jacks

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COUNSEL FOR DEFENDANT

ARM, LTD.

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that, on August 30, 2017, he communicated with counsel for Plaintiff regarding the relief conditionally requested hereby. Counsel for Plaintiff objected to, and did not agree to, ARM, Ltd.'s request that ARM, Ltd. be given an opportunity to file a response to Plaintiff's proposed Surreply.

/s/ Steven Rogovin

Steven Rogovin

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 31, 2017 the foregoing *ARM, Ltd.’s Response to Plaintiff’s Motion for Leave to File Surreply and Conditional Motion for Leave to File Response to Surreply* was filed electronically in compliance with Local Rule CV-5(a) and was served via electronic mail pursuant to Local Rule CV-5-2(e) on counsel of record.

/s/ William T. Jacks
William T. “Tommy” Jacks